App. F. IX-4

Previous References

1930.31
(Law)

File No. 41-30

Serial Nos. 144

Later References
Law 41-30—5-6

54

General and Revenue Secretariat.

Serial Nos. Jons

Part B for September 1931

SUBJECT.

Bill for Rs50/- being the remuneration to the Govt. Advocate for the professional services rendered by him in Civil Revision petition 178 of 30.31 on the file of the High Court of Mysore (D. P. I. Vs. Trustees of the Narimallapa's Charities, Mysore)

---

4) To The Govt. Advocate.
" Comptroller
" D. P. I.

No. P 1762-4 Dy 24.9.31

Sanctions.

Dr. Abdul Aziz
30.9.31.

1424/30.

App. F. III—2]

General and Revenue Secretariat

File No. 61 of 1930.

Serial No.

L.O. No. P/1393/29
dt. 28 & 1930.

Forwarded to the Government Advocate with compliments for favour of opinion and very early return.

M Mahadevappa
Legal Remembrancer
& Secy to Govt
Revenue Dept

GOVT. ADVOCATE'S OFFICE
29 AUG 1930
BANGALORE.

Immediate

Rev Dept 68/30-31
dt 27.8.1930

Rev Dept 14/30-31
dt 4.9.1930

dt 28.8.

Re-transmitted with compliments.

Three points appear to arise for consideration in the present case. They are:-

(i) Whether the order of the District Judge is sustainable on merits?

(ii) If not, what is the remedy for getting the order ~~modified~~ rescinded? and

(iii) Who can seek such remedy?

As regards the first point, the District Judge does not seem to have issued any notice to Government and heard them before approving of the proceedings of the Board of Trustees. The Government Order and the subsequent modification of the scheme by the District Judge by the order of the 27th January 1927 directing the transfer of the management to Government make it clear that if any of the pensions then sanctioned ceased to be payable, it should go to augment the income available for the award of scholarships for the higher education of the Lingayat students. Since such a contingency has occured, it was not

open

NOTE—Contn. Sheet.

WD 02553—G PB—50,000—8 7 30

open either to the Trustees to recommend or the - District Judge to direct the utilization of the lapsed pension for any purpose other than the one set out in the modified scheme of 1927. The construction put by the present District Judge upon the Government Order and his predecessor's order of - January 1927 does not appear to be tenable. I think the order of the 1st August 1930 based upon such a construction cannot be sustained.

So far as the second point is concerned, it has been laid down by decisions of British Indian High Courts that any order passed in respect of a scheme decree by wag of modification is not an - order passed in execution within the meaning of - section 47, Civil Procedure Code, and therefore - not appealable. The remedy in the present case is by way of a Revision application to the High Court under section 115 of the Code.

As regards the 3rd point, it has to be observed that it is only the Lingayat community in the - whole state that is affected by the present order of the District Judge. But, however, the Lingayat members of the Board alone cannot seek the above remedy inasmuch as there are decisions which hold that - whenever an order in respect of a scheme decree is complained of, the remedy should be sought by the whole board and not by individual members thereof. So, it may be assumed that it is not open to a few members of the Board to prefer a Revision Petition in their own names to the High Court. It appears to me that as the transfer of the management of the

institution

Serial No.

institution to Government has been approved of by the District Judge, Government should be considered to be a party to the medofied ~~mdk~~ scheme and as such entitled to apply to the High Court for revision of the District Judge's Order.

Should the Government decide upon filing a Revision Petition, I request that certified copies of the orders of the District Judge (together with the uncertified copies now in the file) and private copies of the relevant resolutions of the Board of Trustees, and the necessary funds, may kindly be arranged to be furnished ~~at~~ an early date for doing the needful. The time for revision is generally sixty days from the date of the lower court's order.

Bangalore,)
4-9-1930.)

M. Ramachandra Rao
Government Advocate.

Letter dated 25th August 1930 from the D.S. Mallappa stating that unless a stay order is issued pending further enquiry, the pensions as per orders of the Dt. Ct have to be paid -

"Law Secy with compts
Vkost Can this be done". Sd K.H

Sd C.H 28.8.

If a revision appl" is filed as suggested by the Govt Advocate, a stay order may be

NOTE—Contn. Sheet.

WD 02553—G PB—50,000—8 7 30

4

File No. 41 of 193 0 . | General and Revenue Secretariat

obtained from the High Court.

Legal R^r

DMG 4.9

The course suggested by the C. A. may be followed.

D M C 6/9

1st Member

through Cypher Secy

RG 5/9/30.

RSD 6/9

CSX 9/9

Draft D M C 9/9

Subd with a dft G.O. ~~draft~~. Sanctioning the Rev Pet?

TSD 10/9

~~Sair~~ Please have the draft typed. for submission -

DMG 12/9

Typed dft Subd?

TSD 13/9

for approval

Legal R^r.

DMG 13/9

May I know

D M. 13/9

G.O. No P. 1558-7 dated 13th Sept 1930 directing to file a revision petition in the High Court against the order of the Dist. Judge Mysore

Subd

TSD 15/9

DMG 15/9

App. F. III—2]

General and Revenue Secretariat | File No. | of 193

Serial No.

Memo no. R 0 7/30-31 dated 25th Sept 1930 from the Govt. Adv forwarding a copy of the letter addressed to the Director of P.I. requesting to send the necessary Copies required for filing a revision petition in the H. Ct re: Marimallappa Chariar

Please send a reminder to the D.P.I.

(Sd) P.M. 25/9

Issue Dft

(Sd) P.M. 25/9

To

The Director of P.I.

No. 4 (Camp) d 25.9.30 requesting to send the necessary certified Copies without delay

Submd for perusal

(Sd) P.M. 25/9

2nd Member

(Sd) K.M. 16.10.30.

Draft enquiring action taken by the Govt Adv: is put up for approval

Legal Asst MMP 17.10

Secy 17/10

NOTE—Contn. Sheet.

WD 02553-50,000—GPB—8-7 30

6

File No. of 193 .

General and Revenue Secretariat

To

The Govt. Advocate

No. P. 2304 d 28.10.30 enquiring whether the petition re: Marimallappa's Charities, was filed, if so, requesting to forward a copy of the same informing the further progress of the Case.

Sus A

TSD 29/10.

Letter no 263 dated 31st Oct 1930 from Govt. AG. forwarding a Copy of the Revision petition filed on 10th Oct 1930, re: Marimallappa's Charity.

For perusal

TSD 3/11.

Legal Rr

2nd Member

DF 3/4

OFFICE OF THE SECOND MEMBER OF COUNCIL
5 NOV. 1930
No. 3693

Please enquire from G. A's office to which date this case is posted & have it noted on the file - for refce.

DF 13/4

Sus A

TSD 13/4

Sus C

Posted to 30.6.31

Adj'd to 13.7.31

Issue the draft to GA

DF 17/7

Sus A.

AD 24/7

Issued No. P. 415 dt 28

699/1957

7

App. F. III—2]

General and Revenue Secretariat | File No. | of 193

Serial No.

Letter no 48 dated 21st July 1931 from the Govt. Ad stating that arguments were heard on the 13th inst and orders have been reserved the result may be awaited.

This may perhaps be sent to the Edn Br for perusal and return.

TSD 23/7

I have marked the linked file (now separated) to the Edn Br. This may await receipt of further report from GA

BNP 23.7.31

Letter no 101/31-32 dated 7th Aug 1931 from the Govt Ad stating that the C.R.P. Case on for final disposal on 7.8.31 and orders were passed setting aside the order of the Dist Judge, Mysore, and remanding the Case to the lower Court for disposal according to law after notice to Govt.

Copy of the order is to be awaited shortly for perusal.

TSD 11/8

Gen: Secy) BNP 10/8

H I (Mulcer) 10/8

lcc 11/8/31 MNP 11/8

Hm 11/8

Edn Br for perusal & return

BNP 11/8

GENERAL SECRETARY. 10 AUG. 1931 No 1137

OFFICE OF THE SECOND MEMBER OF COUNCIL 11 AUG. 1931 No. 1634

EDUCATIONAL BRANCH 12 AUG. 1931 580 GEN. & REV. SECTT.

WD 02553—50,000—GPB—8-7 30

8

Law
File No. of 193 .

General and Revenue Secretariat

Sent for perusal after Sen file 93:30 as the subject is also linked hereto.

13/8

8/8/31. Ch. Secy 15/8

17/8/31

Returned to Law Section

18/8 8/8/31.

Sus B. to await copy of the order.

ISD 19/8

Letter no 143 dated 28th July 1931 from the Govt. of Mysore forwarding a copy of the order passed in C.R.P. no. 178/30-31 on the file of the H.Ct. (D.P. 9. Trustees of the vs. Marimallappa's Charities)

This is a revision petition presented against the order of the Dist. Judge Mysore, passed in the matter of the management of the Marimallappa's Charities Mysore. The High Court has set aside the order of the Dist. Judge and remanded the Case to the lower Court for disposal after notice to Govt. Copy of the order is to be sent to D.P.9. Subt? for perusal & orders.

19/8

ISD 31/8.

The D.P.I has to be requested to take further action in the Dt. Ct. Mysore in consultation with the Pr. of that Dt. Please submit a draft accordingly.

7/9

1061

9

App. F. III—2]

General and Revenue Secretariat | File No. | of 193 .

Serial No.

Dft to see D.O. 9. ~ Sub? for appl

TSD 1/9

9

The copy of the order of Mr Justice Srinivasa Iyer remanding the case to the Dt Ct Mysore for disposal after giving due notice to the Govt is submitted for perusal

Draft put up may be approved.

(Sd) M.N.P. 1/9/31

GENERAL SECRETARIAT 1 SEP 1931 No. 1060

OFFICE OF THE FIRST MEMBER OF COUNCIL 5 SEPT. 1931 No. 2365

I Mem (Sd) To see 4-9 M.N.P. 4/9

by 7/9(3) H.M.

Issue M.N.P. 7.9

TYPING SECTION 7. SEP. 1931 GENL. & REV. SECTT.

To

The Div. of P. Dept?

No. P. 1539. dated 10.9.31 forwarding a copy of the order passed in the Civil Rev. Pet? and requesting to take further action in the Dist. Ct. Mysore, in Consultation with the Pp. Mysore.

NOTE—Contn. Sheet

WD 02553—50,000—GPB—8-7 30

1132 CO

App. F. III—2]

General and Revenue Secretariat | File No. | of 193

Serial No.

3

Letr no 163 dated 2nd Sept. 1931 from the Govt. Ad. forwarding a bill for Rs 50/- being his remuneration for the services rendered in the Civil Rev. Rel.

No order is made as to the Costs incurred. The fee claimed by the Govt. Ad. appears to be reasonable. of course this will have to be met out from the funds of the Narasimhappa's Charities. A Dft G.O Sanctioning is however put up for Consideration

ISD. 11/9 Subd for orders.

May be approved

(Gen Secy). BNP 11.9.31

I Member. H 12 18.9

BNP 21/9.

by MR 21/9 Hrs

Issue MR 21/9

To

The Govt. Ad. with the bill

" Comptroller

" D.P.I. in Mysore.

G.O. No. P. 1762-4 Law. 41-30-4 dt 14-9-31 sanctioning a fee of Rs 50/- for the services rendered in C.R.P. 178/1931 on the file of the H.Ct. Mysore (D.P.I. in Mysore vs the Trustees of Narasimhappa's Charities)

B

NOTE—Contn. Sheet

ISD 23/9 MR 23/9

GENERAL SECRETARIAT 11 SEP. 1931 No 1965

OFFICE OF THE FIRST MEMBER OF COUNCIL 21 SEPT. 1931 No. 2666

TYPING SECTION 22 SEP. 1931 GENL. & REV. SECTT.

WD 02553—50,000—GPB—8-7 30

TEL: ADDRESS:-
EDUCAGEN.

DEPARTMENT OF PUBLIC INSTRUCTION.
GOVERNMENT OF MYSORE.

POSTAL ADDRESS:
POST BOX NO. 8

D. O.

A. R. WADIA, B. A., (Cantab.)
BAR-AT-LAW,
Offg. Director of Public Instruction.

BANGALORE.

11th August 1930.

Dear Mr. Mahadeviah,

Please refer to the English Leader in the Mysore Star of the 9th instant re the diversion of the funds of the Marimallappa's Charities from scholarships to pensions. In this connection I have also received a communication from Mr. D.S. Mallappa of Tiptur and he requests me to stop this diversion of funds. I am at a loss to understand how I can interfere at this stage against an order which was passed by the District & Sessions Judge, Mysore. I must admit that this order is unsatisfactory, but what exactly can I do? I shall thank you to enlighten me as early as possible.

Yours sincerely,
A R Wadia
D.P.I.

P. Mahadeviah, Esq., B.A., B.L.

616

12/18/30

Dear Mr Wadrah,

I cannot [illegible]
the article this morning. I do
know what the powers of the Committee
are in this matter so whether you
can interfere. The copy of the
application presented to the Judge &
the copy of his order have also
to be sent

I think you may ~~call~~

(1) call for a report from the
Asst Marshal Criminal

(2) obtain the Copies above referred to

(3) & send me a statement of the
course with your own views
[illegible] required by Rule 66 of the Rules for the Conduct of Legal Affairs of
for my opinion (either directly, or through Gr

I am writing [illegible] I send you my love &
Allen [illegible] & the Subjects [illegible] Love from my Children

414
P

12th Aug. 30.

Dear Mr. Wadiah,

I cursorily glanced the article this morning. I do not know what the powers of the Committee are in this matter and whether Government can interfere. The copy of the application presented to the District Judge and the copy of his order have also to be seen.

I think you may

(1) call for a report from the Head Master concerned;

(2) obtain the copies above referred to

(3) and send up a statement of facts

together with your own views as required by Rule 66 of t the Rules for the conduct of Legal Affairs of Government for my opinion, either directly or through Government. I can assure you that I will give my best attention to the subject and send you my opinion.

Yours sincerely,

P M

To

A.R.Wadia, Esq.,B.A.,Bar-at-Law,
Director of Public Instruction in Mysore.

Despd
12/8/30

TEL. ADDRESS : "DESAMUDRE"

D-S. MALLAPPA, M.L.C.
MERCHANT, MEMBER OF THE REPRESENTATIVE ASSEMBLY AND DIRECTOR OF THE BANK OF MYSORE, LTD.

TIPTUR

No.

Dated, 11th August, '30.

To

K. Matthan, Esq., B.A.,
Member of Council,
Bangalore.

My Dear Sir,

I am given to understand that the District Judge who is the Head of the Trustees of the Late Marimallappa's Charities has sanctioned a sum of Rs.30/-, out of the savings of the pension amount of one Mr. Puttananjiah, deceased, to the other teachers who retired from the service of the School recently. In this connection, I beg to bring to your kind notice that this order is completely opposed to the Government Order passed regarding all the savings of pension amounts of the old staff. Government have clearly laid down in their order No. G.O. E.5720-221, Edn. 10-5-25, dated 14th April, 1926, that the pension sanctioned to some of the retired staff of the School shall be paid to them as long as they are payable and afterwards the released amount should go towards the Scholarships. The whole amount is a trust amount so generously left behind by the noble donor for the benefit of the Lingayet Community. The condition of the service of the Staff was such that they could not claim any pension. On this consideration only, the Government have ordered that the pension amount

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amount should go towards Scholarships. The order of the District Judge asking the Trustees to pay pension to the retired staff is not only opposed to Government order but a clear injustice to the community for the benefit of which the Trust exists. As such, it is wrong to pay the amount which should go to augment the Scholarship amount, towards the pension charges of the staff which have absolutely no claim for pension. I beg of you Sir, to kindly consider this aspect of the question and order the withholding of the payment of pension charges to the Staff. As the Secretary is likely to pay the pension amounts before this objection is disposed off after due investigation by your kind self, I request you to kindly issue a Temporary Stay Order to the Secretary prohibiting him to pay the pension amount until this objection is finally disposed off by ~~the~~ you yourself after giving me and other members of the Lingayet Community an opportunity to fully represent their side of the case to you. I hope Sir, you will kindly issue the Stay Order immediately and also grant me an opportunity to present our side of the case fully before you. I hope Sir, that you would kindly grant this request and thereby safeguard the interest of the Community for the benefit of which the Trust exists.

I am.

Yours sincerely,

Ramakoppa

Issued on
12th Aug. 1930.

Pp. 44

Dear Mr. Mallappa,

I have received today your letter of the 11th instant on the subject of the diversion of a portion of the funds of the Marimallappa's charities from scholarships to pensions. I understand that you have also written to the Director of Public Instruction on the subject and he is considering whether it is possible for Government in the Education Department to take any action in the matter.

Yours sincerely,
Intd/ K.M.

D.S. Mallappa, Esq., M.L.C.,
Merchant, Tiptur, (Tumkur District)

OFFICE OF THE
THIRD MEMBER OF COUNCIL.
12 AUG. 1930
No. 1520

M. S. RAJAGOPAL RAU, M.A. (HONS.),
HEADMASTER,
GOVERNMENT MARI MALLAPPA'S HIGH SCHOOL,
MYSORE CITY.

7

Mysore,

Dated the 14th August 1930.

Ref letter 12-8-30

Confidential

Dear sir,

I am submitting to you a report with my own views in the matter and furnishing some materials as desired by you. All these render themselves unofficial firstly because, the Head Master is not an ex-officio member of Board of trustees, however necessary it might be to treat him as such. The Head Master has no official access to the correspondence and proceedings of the meetings of the Board. The Headmaster has only to see to the seating and other arrangements connected with the periodical meetings of the Board held in the school. The second reason which may prevent you from making direct use of this report is that I am ill since the 6th of August and have applied for leave till the 21st August 1930.

My report will be brief as compared with the preamble. A fairly voluminary file of records I received yesterday through the kindness of Doctor Siddappa. It would not be fair to Doctor Siddappa, Honorary Secretary, if it is made known that he put into the hands of an outsider the correspondence of the Board of trustees with the various authorities. Confidentially speaking therefore, the non-lingayet majority in the Board may be said to be pressing the case for granting further pensions as against scholarships. As a perusal of copy of the latest communication (enclosed) from the District Judge will

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M. S. RAJAGOPAL RAU, M.A. (HONS.),
HEADMASTER,
GOVERNMENT MARI MALLAPPA'S HIGH SCHOOL,
MYSORE CITY.

will make it clear that his interpretation of clause D) para 111 of communication dated 17th January 1927 from Mr. S. Venkata-Krishniah, District Judge is also in favour of the decision of the non-lingayet majority of the Board of trustees and he insists upon pension payments being made ' with the least possible delay. ' I am sure he is not aware that the Lingayets as a community hold diametrically opposed views

The Lingayet members of the board Gentlemen like Mr. D.S. Mallappa (copy of letter of protest enclosed) and the Veeraaaiva community assembled in meeting on 15-3-1930 at Sahukar Chinniah's building dissociate themselves with one voice from the majority view and urge that the formaboard of trustees should be scrapped and a fresh one reconstituted with five lingayet gentlemen and the Principal of the Maharaja's College as president.

I do not see that there is anything unreasonable in the attitude taken up by the Lingayets in the matter. The funds came from a benefactor of the Lingayet community and the voice of the Lingayets should prevail over those ofother people in the disposal of the Trust funds.

As Mr. D.S. Mallappa has pointed in his letter (copy enclosed) the pension claims now put forwarded by the majority are belated and there is ample evidence to show that at the time of granting pensions to Messrs. Venkatakrishniah and Puttananjappa, there was no idea ~~of~~ whatever of considering other claims and that the matter had been settled once for all. Naturally ~~enough~~ no body suspected that the athletic Mr. Puttananjappa

M. S. RAJAGOPAL RAU, M.A. (HONS.),
HEADMASTER,
GOVERNMENT MARI MALLAPPA'S HIGH SCHOOL,
MYSORE CITY.

would die so suddenly (date). Curiously enough these pension claims have been put forward after the death of Mr. Puttananjappa. Prior to his death they appear to have been satisfied with the arrangements made by Government in their favour (Mr. D.S. Mallappa's letter) what they are I know not.

To reppen at this stage the question of awarding pensions out of the amount released by the demise of Mr. Puttananjappa is to commit an act of grave injustice to the Lingayet Community.

This does not however amount to saying that Messrs, Rama Rao and others do not deserve better at the hands of Government or the Lingayet community. Mr. Rama Rao the first claimant is a man of a very high order and I have no doubt that the institution during its pre-Government days owed very much to his high character and steady service. He is a Mharata whom I know very well.

I am afraid that the majority view might be due to considerations like these. It cannot however be sustained by any accepted principle or even a strict interpretation of the rules already laid down.

If the Director is to obtain early reports of the Boards proceedingsand other matters, the proper man to discharge these

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M. S. RAJAGOPAL RAU, M.A. (HONS.),
HEADMASTER.
GOVERNMENT MARI MALLAPPA'S HIGH SCHOOL.
MYSORE CITY.

these duties is the High School Headmaster . If he is not not a member of the Board the Director will be obliged to carry on all such correspondence with the Honorary Secretary, of the Board (Doctor Siddappa at present).

With the time ~~of~~ at my disposal I cannot add anything more to this.

Yours sincerely,

M. S. Rajagopal Rau

To.

A. R. Wadia, Esq., M.A., (Cantab)
Bar-At-Law.,
Director of Public Instruction
in Mysore,
BANGALORE.

P.S. The proceedings of the Board's last meeting I would have enclosed if I had found time to do so. I would call for necessary records from Dr. T. S. Siddappa. The Custodiace of these and Hon Sec? of the Board of Trustees. Yours

Letter of protest
by a
Lingayet leader
on D.S. Mallappa.

11

Tiptur
Dated 15th March, 30.

To

J. C. Rollo, Eq., M.A.,

President, Marimallappa's Charities,

M Y S O R E.

Dear sir,

I learn that the Board of Trustees of Marimallappa's Charities have decided to pay pension to some of the retiring staff. The income of the charities were not at all meant for that. It is clearly stated in the Government Order, that after the release of the pension amounts that were given to previous staff, the amount that released would go to augment the Schoarship amount. It is painful to note that the Board of Trustees have gone against that Government Order and have allotted pension amount to the staff. This is really a great injustice done to the community for the benefit of which the late Donor so generously left behind the fund. The condition of service under which the old staff was employed was such that they would not get pensions.

In addition to this, I understand that they represented their cas to Government and got some bonus sanctioned by Government. Such being the case, I do not find any reason for the Trustees allotting this pension contribution to them.

I beg to record the protest of both myself and the community to which I have the honour to belong for the procedure adopted by the Trustees in this behalf. I request you to kindly move the Trustees to reconsider their decision and set right the injustice that they have done to the community.

I ~~have~~ hope, you will kindly see your way to comply with this request and oblige.

Thanking you in anticipation,

I am,

Yours sincerely,

Sd/ D.S. Mallappa. M.L.C.
R.A. member.
Director Banking Mysore.

1124 P 30 12

TEL: ADDRESS:-
EDUCAGEN.

DEPARTMENT OF PUBLIC INSTRUCTION.
GOVERNMENT OF MYSORE.

POSTAL ADDRESS:
POST BOX No. 8

D. O. D5-4279 Enc: 5
116

Leave 41-30-1

A. R. WADIA, B. A., (Cantab.)
BAR-AT-LAW,
Offg. Director of Public Instruction.

CONFIDENTIAL.

BANGALORE.

19th August 1930.

Dear Mr. Mahadevaiya,

Your Demi-official letter No.P.414 of the 12th instant.

As desired by you I wrote to the Head Master of the Marimallappa's High School asking for the required information. I beg to send you herewith the papers received ~~by~~ from him for your perusal and considered opinion as to what I should do. I should particularly like to be advised whether it is open to the Department to appeal against the order of the District and Sessions Judge or do you think it will ~~not~~ be better, if the Lingayet members of the Board of Marimallappa's Charities should move the High Court in the matter? You will kindly return to me the papers sent herewith. For your information I am also sending you copies of my predecessor's letter to the Secretary of the Marimallappa's Charities dated 26th May 1930.

Yours sincerely,
A R Wadia

P. Mahadevaiya, Esq., B.A., B.L.,
Legal Remembrancer to the Government of
His Highness the Maharaja of Mysore, Bangalore.

Copy of letter No. D5. 4279 of 29-30 dated 26th May 1930 from the Director of Public Instruction in Mysore to the Secretary, Marimallappa's Charities, Mysore:

With reference to your letter No.130 and 135 dated 19th March 1930 and 4th April 1930 respectively in the matter of the resolution passed by the Trustees to utilise the savings under pension for awarding fresh pensions, I have the honour to state that the resolution passed by the committee is against the condition laid dowan in sub para (iv) of paragraph 3 of Government - Order No.E.5720-22 Edn.10-25-5 dated 14th April 1926 that the pensions sanctioned by the Trustees to some of the retired members should after they lapse be utilised for awarding scholarships to Lingayat students. I therefore request the Committee not to give effect to the - resolution until it is approved by the District Judge or until a decision is arrived at by the District Judge.

"Copy"

19th August 1930.

Offg. Director.

IN THE COURT OF THE DISTRICT JUDGE, MYSORE.

PROCEEDINGS DATED 1st AUGUST 1930.

In the matter of the management of the late Mr. Marimallappa's Charities concerned in O.S. No. 4 of 1879 on the file of this court.

R E A D:-

(1) this Court's Proceedings in Chambers dated 17th January 1927 passing orders among other things on the pensions which were being paid to some of the retired teachers of Marimallapp's High School and

(2) letter No 147 dated 30th July 1930 from the Honorary Secretary, Marimallappa's Charities submitting copies of proceedings of the Board of Trustees concerning grant of pension to the teachers and peons who were retired consequent on the transfer of the School from the management of the Board to the Government.

O R D E R.

In the proceedings of the Board of Trustees dated 27th September 1928 they passed the following resolution strongly recommending to Government the grant of pension to the retired school masters Messrs. M.Rama Rao, K. Srinivasachar and R. Madappa and also to the retired servant Borayya:-

"They desire however, strongly to recommend that Government may be pleased to extend to these persons because of their long and efficient service, the same consideration as regards the pension, as was shown for example, when the Maharani's High School was taken over by Government".

The statement appended to that resolution shows that on the 8th June 1927, when the school was handed over to Government, Mr. M. Rama Rao was drawing a pay of Rs. 35/- and had put in a service of 32 years, Mr. K. Srinivasachar Rs.30/. served for 24 years and Mr. R. Madappa Rs. 20/- for 23 years. Servant Borayya had put in a service of 45 years and was drawing a pay of Rs.14/- on that date. He also appears to have served for a year more after it was handed over to Government.

In this connection, it has to be noted that in the proceedings of this court dated 17-1-1927 under which the present Board of Trustees was

was consitituted, the following observation finds a place. viz.

~~[illegible]~~

"The pensions which have already been sanctioned to some of the retired teachers of the school shall be paid to them so long as they are payable out of the income derived from the endowment fund and thereafter the whole of the amount be utilisef for scholarships".

This observation as also a similar clause appearing in G.O. No. E.5720-22/Edn.10-5-25 dated 14th April 1926 to the same effect seems to have raised a doubt in the minds of the members of the Board with the result that on 6-10-29, the president made a reference to this Court for an interpretation of these clauses and a reply was sent in this Court's letter No. 6325/862 dated 9-6-30 to the effect that this did not prevent the Committee from considering fresh applications for the grant of pensions and from making such recommendations relating thereto as they deemed reasonable and equitable to this Court for approval. While passing the order dated 17-1-27 referred to above, this Court was probably under the impression that those teachers of the institution who had a claim for pension had already been granted pensions, and that none else remained having such claims at the time the institution was ~~[illegible]~~ handed over to Government, and accordingly that clause seems to have been inserted in the order, and therefore, no provision was made in anticipation for such claims. Now that the matter has come to the notice of this Court through this Board, I do not see any reason why the concessions already shown to the teachers that retired from the institution prior to the handing over of the same to the management of Government should not also be extended to those who worked in the institution till that date. It is under those circumstances that the aforesaid reply dated 9-6-1930 was sent to the Board.

In their subsequent proceedings passed on 26-11-30 it was resolved by a majority of the Board that the sum of Rs.30/- which became available owing to the death of Mr. M.Puttananjappa, a retired school master of the institution who was drawing a pension of Rs. 30/- be ~~[illegible]~~ distributed amongst the 3 aforesaid teachers and the peon Borayya in proportion to the amounts of pay that these several persons were drawing at the time of their retirement and the number of years service put in by them. After making calculations on this basis, they resolved that payments might be made as follows

M. S. RAJAGOPAL RAU, M.A. (HONS.),
HEADMASTER,
GOVERNMENT MARI MALLAPPA'S HIGH SCHOOL,
MYSORE CITY.

(1) Mr. Rama Rao to get Rs. 13-3-0 per month

(2) ,, Srinivasachar Rs. 8-7-8

(3).,, R. Madappa Rs. 4-11-4 and

(4) Borayya Rs. 3-10-0

Having regard to the long and efficient service of the several teachers and the peon referred to above, the Board was competent to pass the resolution referred to above and I sanction the payment of pensions as per particulars specified in the Board's proceedings dated 26th January 1930.

That resolution suggests that these payments have to be made forthe date on which the sum of Rs. 30/- that was being paid to the late Mr. Puttanajappa became available on his death. But, it seems to me that once it is held that these persons are entitled to pension, this ought logically and equitable to take effect not from the date of the death of Mr. Puttanajappa, but from the date of retirement of the several persons concerned. The resolution passed on 27-9-28, recomended that these persons should be placed on the same footing as persons retiring from Government service, as regards the payment of pension.

On that basis, the amounts payable as pension to the several teachers will be as follows:-

Mr. Rama Rao	Rs. 17- 8 -0
,, Srinivasachar	12- 0 -0
,, Madappa	7-10 -8
Total	Rs 37-2-8-

17

M. S. RAJAGOPAL RAU, M.A. (HONS.),
HEADMASTER,
GOVERNMENT MARI MALLAPPA'S HIGH SCHOOL,
MYSORE CITY.

It is well within the power of the Committee to make fresh recommendations on this basis for the approval of this court in view of the fact that those that retired previously were shown similar concessions, and also of the fact that this is the very last batch of persons that can ask for the same.

Anyhow, any further recommenda ions that the the Board may deem fit to make on the lines suggested above, need not stand in the way of payments being made immediately at the rate and from the dates indicated by the resolution dated 26th January 1930 to the respective parties concerned. Further, it has been brought to the notice of the Court that peon Borayya is dead and if that be true, a sum of Rs. 3-10-0 allotted to him out of Rs. 30/- will, be available for redistribution amongst the three teachers referred to above pro rata from the date of his death. The Board will see that the payments are made with the least possible delay o the respective parties concerned and to the legal representatives of the deceased peon Borayya.

Sd/K. Shankaranarayana Rao,
District Judge.

No. 587/124 D.5th August 1930.

To

The Honorary Secretary,
Marimallappa's High School,
Mysore.

IN THE COURT OF THE DISTRICT JUDGE, MYSORE DIVISION,
MYSORE.

18TH January 1927.

Present:- S. Venkatakrishniah, Esq, B.A.,B.L.

District Judge.

O.S.No. 4 of 1879.

In the matter of the administration of the late Mr. Gurukar Marimallappa's Charities.

Proceedings in the Chambers.

In O.S. No. 4 of 1879 this court drew up a scheme on 22-8-1879, for the management of the Late Mr. Marimallappa's charities for the education and advancement of the Lingayet students. A Board of Trustees was appointed to manage the charitable Institution Known as Marimallappa's High School in Mysore city. From the progress reports and proceedings of the Board of management it is seen that the Financial position of the institution is very unsatisfactory and that it is not possible to maintain it in an efficient condition with the slender resources at the disposal of the trustees. The trustees recommended that the School should be handed over to Government management subject to certain conditions which have been accepted by the Inspector General of Education and approved by the Government. This involves a radical attention in the scheme as originally framed by this court. The court is compitent to vary the scheme as the exigencies of the case may require. A wide discretion is vested in the court to alter the scheme having regard to the conditions which have grown up since its Foundation (CF 43 Indian Cases 772, 76. Cases 220, 16 C.L.J, 431, 24. Bom 45,45 Bom 683.)

II. The interest accruing from the trust Fund is mostly spent on the payment of pensions to two faithful servants of the Instituion who rendered meritious service. The income derived from the school fees and the liberal grant given by the Government are not adequate to maintai maintain the institution having regard to be present conditions. The low pay and the limited prospects of promotion may not attract competent teachers and in consequence the efficiency of the school is likely to be impaired still further. Having perused the statement of accounts inspection notes and progress reports, I am satisfied that a radical

radical in the scheme as originally framed is urgently called for. I have therefore accepted the recommendations of the trustees with slight modification.

III. It is accordingly ordered that the Marimallappa's High School shall be managed by the Government and all its properties do vest in the said Government of Mysore with the following conditions:-

a) The present name of the school shall be continued.

b) Either 65 Lingayet students or 40% of the total No, of the students of the said community which ever is the greater, shall be admitted Free.

c) The endowment of Rs. 30,000/-. made by the donor shall continue to be in the hands of the trustees appointed by this court and the income devided there from shall be utilised for the award of scholarships for the higher Education of the Lingayet students. subject clause (D) below.

D) The pensions which have already been sanctioned to some of the retired teachers of the school shall be paid to them so long as they are payable out of the income derived from the endowment fund and thereafter the whole amount be utilised for scholarship.

e) The building with all its furnitures and apparatuses to the Government of Mysore by the trustees.

f) The advisibility of giving preference to Lingayet students in the matter of admission to the school should be kept in view in so far as financeial and other considerations may permit.

The following gentlemen are appointed trustees to administer the fund referred to in clause c above.

1 Mr. J. C. Rollo, M.A., President
2 ,, T. S. Siddappa, Secretary,
3 ,, B. Subba Rao.
4 ,, H. Nanjundaraje Urs,
5. ,, H, Narasinga Rao.
6. ,, S. Ranga char.
7. ,, M. Venkatakrishniah.
8. ,, M.P. Lingappaiah.
9. ,, Virupakshiah.
10. ,, H.K.Veerabasaviah.
11. ,, Gurukar Basavalingaiah,

Sd/ S. Venkatkrishniah.
Dist: Judge. 17.1.27.

Proceedings of the meeting of the Board of Trustees for the management of Marimallappa's Charities, Mysore, held on Thursday the 3rd, July 1930 at 5 P.M. in Marimallappa's High School, My sore.

Members present.

1. M. Venkatakrishniah, Esq
2. M.s. Basavalingappa, Esq.,
3. M.P. Lingappaiah, Esq.,
4. Y. Virupakshiah, Esq.,
5. Mysore Mahalingappa, Esq.,
6. T. S. Siddappa, Esq., L.M.& S., (Honorary Secretary.)

Members Absent.

1. J. C. Rollo., Esq., M.A., (President)
2. B. Subba Rao, Esq., L.C.E.,
3. H. Nanjundaraje Urs. Esq.,
4. S. Rangachar, Esq.,
5. H. Narasinga Rao, Esq.,

As the president J. C. Rollo Esq., was absent from Mysore, M. Venkatakrishniah Esq., was proposed to take the chair unanimously.

1. Read notice convening the meeting.
2. The minutes of the previous meeting held on 10-4-30, were read and confirmed.
3. Accounts for the half year ending on 30th June 1930, were read and passed pending Audit.
4. The following members are elected to form a sub Committee to make recommendation to the Board, regarding the Lingayet Scholarships. Messrs. Y. Virupakshiah, M. S. Basavalingappa, M. Venkatakrishniah, and Honorary Secretary.

Meeting terminated by 6 P.M. with a vote of thanks to the chair.

Sd/ M. Venkatakrishniah,

TEL. ADDRESS: "DESAMUDRE"

21

D. SAMALLAPPA, M.L.C.
MERCHANT, MEMBER OF THE
REPRESENTATIVE ASSEMBLY AND
DIRECTOR OF THE BANK OF MYSORE, LTD.

TIPTUR

Dated 25th. August. 30.

No.

To Mahamanthrapravina
K. Matthan Esquire. B.A.
Member of Council. Bangalore.

My dear sir,

I am in receipt of your letter no. 44 of 11th instant informing me that action will be taken regarding the diversion of a portion of the funds of the Marimallappa's charities from scholarships to pensions. In this connection I learn that no stay order has yet been issued either by you or by the Director to the Secretary of the funds. In the absence of such an order he will have to pay the pensions as per order of the District Judge Hence I request you to kindly issue stay order pending enquiry of the matter.

Yours sincerely,

D. Samallappa

22

G.R.S. App. F VI G-2]

SUBJECT.....

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Diary No. of letter replied to.....

Sec Home
File No. 41-30
Serial No. 7

General and Revenue Secretariat

( )

the 192 .

Proceedings of the Government of His Highness the Maharaja of Mysore.

Date of issue 13/9/30

Signed by

Read –

Correspondence ending with D. O. No. D. S. 4279/116 dated 19th Aug 1930 from the Director of Public Instruction, Bangalore regarding ~~refusing to be advised as to the Course open to him against~~ the order dated 5th August 1930 passed by the District ~~and Sessions~~ Judge Mysore ~~re~~ allowing the payment of certain pensions to ~~Order Thereon No.~~ the retired teachers of the Marimallappa's High School out of the endowment of the Marimallappas Charities ~~from Scholarships to pensions~~.

2 Unofficial note No. 14/30-31 dated 4th Sept 1930 from the Govt Advocate stating that the remedy in the present case is by way of Revision application to the High Court under Sec 115 of the

May this be

i Printed?

ii treated as a standing order ?

iii published in the Gazette, English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette, Kannada Part ?

13/9.

23

~~Civil Procedure Code.~~

1559-7

order thereon:—

Govt are pleased to ~~sanction~~ direct the filing of a revision petition in the H.Ct against the order of the District Judge Mysore read above. The Govt Advocate is requested to take ~~the necessary~~ early steps in the matter, after obtaining ~~steps in the matter may be obtained~~ the necessary instructions obtaining the ~~necessary~~ entire record from the Director of Public Instruction.

By Order of Law Secy to Govt.

TSD
11/7

To

i) The Director of Public Instruction

ii) The Govt Advocate.

~~iii)~~ Copy to Dev Branch.

List of enclosure.

Copied by

Examined by

WD 079—GPB—8000—10-10-29

24

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Clean Draft

Read:-

Correspondence ending with D.O.No.D.S. 4279/116 dated 19th August 1930 from the Director of Public Instruction, Bangalore regarding the order dated 5th August 1930 passed by the District Judge, Mysore allowing the payment of certain pensions to the retired teachers of the Marimallappa's High School out of the endowment of the Marimallappas Charities.

Order,No. 1536-7 Legal 41-30-2

Dated, Bangalore the 13 September 1930.

Government are pleased to direct the filing of a revision petition in the High Court against the order of the District Judge Mysore read above. The Government Advocate is requested to take early steps in the matter, after obtaining the necessary instructions from the Director of Public Instruction.

P M.

M. Samiengar

For Secretary to Government,

Law Department.

PM

To

The Director of Public Instruction in Mysore.

The Government Advocate in Mysore.

TD

VERY URGENT.

In reply please refer to
No. 207/30-31

Tel. Address:—
"JURIST," Bangalore.

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore...25th..September.....*19*30.

FROM

M. RAMACHANDRA RAO, ESQ., B.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

To

The Director of Public Instruction
in Mysore,
Bangalore.

SIR,

Re:-Marimallappa's Charities -- Filing a Revision Petition to the High Court --- against the - Order of the District Judge, Mysore Division-- Certified copies of Orders etc., required for the same.

I have the honor to invite your attention to this office letter No. 188, dated the 17th September 1930 on the above subject, and to request that the despatch of the copies etc., - mentioned therein may be kindly expedited. As the time for - filingn a Revision Petition is, generally sixty days from the - date of the lower court's order, the time in the present instance expires by the 5th October 1930, as the lower court's - order was passed on the 5th August 1930. Under the circumstances, I request that the matter may be kindly trated as very urgent.

I have the honor to be,
Sir,
Your most obedient servant,

Sd/- M. Ramachandra Rao,
Government Advocate.

OFFICE OF THE
SECOND MEMBER OF COUNCIL
16 OCT. 1930
No. 3049

Memo No. 207/30-31.

Dated Bangalore, the 25th Sept. 1930.

Copy of the above is forwarded, with compliments, to the Secretary to Government, Law Department, for information with reference to Government Order No. P. 1556-7/Law., dated the 13th September 1930.

M. Ramachandra Rao
Government Advocate.

Appendix F G—1

SUBJECT.....

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Section Law

File No. 41-30

Diary No. of letter replied to.....

Serial No.

No. P 2304

General and Revenue Secretariat

( )

the *192*

To

The Govt Advocate

Date of issue 28/10/30

Signed by Mr N R J

Sir,

With reference to your memo no: 207/30-31 dated 25th Sept^r 1930 regarding the filing of a revision petition in the matter of the Mari Mallappa's Charities, I have the honour to enquire whether the petition was filed in time and if so to request you to forward for the information of Govt a copy of the same — Govt

List of enclosures.....

Copied by 27/10.

Examined by.....

over

may also be kindly kept
informed of the further
progress of the Case

Thanks

Dear Sir,

Yours

P 2304
Law 41-30

28/10/30

28

The Government Advocate in Mysore,

Bangalore.

With reference to your Memo No.207/30-31 dated 25th September 1930 regarding the filing of a revision petition in the matter of the Marimallappa's charities, I have the honour to enquire whether the petition was filed in time and if so, to request you to forward for the information of Government a copy of the same - Government may also be kindly be kept informed of the ~~future~~ further progress of the case.

I have the honour to be,
Sir,
Your most obedient servant,

For Legal Remembrancer &
Secretary to Govt.,
Law Department.

TD

2173 P 30 29

In reply please refer to
No. 918

Tel. Address:—
"JURIST," Bangalore.

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore 31st October *1930*.

FROM

M. RAMACHANDRA RAO, ESQ., B.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

To

The Secretary to the Government
of H. H. The Maharaja of Mysore,
Law Department, BANGALORE.

SIR,

With reference to your letter No. P.2304/Law.41-30, dated the 28th October 1930, I have the honor to state that the Revision Petition in the matter of the Marimallappa's Charities, was filed before the High Court on the 10th October 1930 and was in time.

2. A copy of the Petition is forwarded herewith, as desired, for the information of Government.

I have the honor to be,
Sir,
Your most obedient servant,

M. Ramachandra Rao
Government Advocate.

CSN.

IN THE HIGH COURT OF MYSORE AT BANGALORE.

CIVIL REVN. PETN. No. 178 /1930-31.

The Director of Public
Instruction in Mysore,
BANGALORE. .. PETITIONER.

VS.

The Board of Trustees of the
Marimallappa's Charities, Mysore,
consisting of the following
Members :-

1. J. Cl Rollo, Esq., M.A.,
President of the Board of Trustees
& Principal, Maharaja's College,
MYSORE.

2. M. Venkatakrishnaiah, Esq.,
Vanivilas Press,
Lakshmipuram, MYSORE.

3. B. Subba Rao, Esq., L.C.E.,
Retired Chief Engineer,
residing in Manimandiram,
Lakshmipuram, MYSORE.

4. Lokahitaishi H. Nanjundaraj Urs, Esq.,
Viceroy Road, MYSORE.

5. M. Basavalingaiah, Esq., M.A.,LL.B.,
Narayanasastry Road, MYSORE.

6. S. Rangacharlu, Esq., Retired Dist.
Inspector of Schools,
Lakshmipuram, MYSORE.

7. H. Narasinga Rao, Esq., Advocate,
Chamaraja Road, MYSORE.

8. Mysore Mahalingappa, Esq.,
Merchant, TIPTUR.

9. M. P. Lingappiah, Esq., Manager,
Therakanambi Spinning Centre,
Therakanambi, Gundlupet Taluk.

10. Y. Virupakshaiah, Esq.,
Crown Electric Press,
Sayyaji Rao Road, MYSORE.

11. T. S. Siddappa, Esq., L.M.&.S.,
Secretary, Marimallappa's
Charities, Vani Vilasa Road, MYSORE.

OPPONENTS.

Under Section

3/

Under Section 115 of the Code of Civil Procedure.

The Petitioner abovenamed begs to present this Petition praying that the order passed by the District Judge, Mysore Division, on 1st Augustm1930 in the matter of the management of the late Mr. Marimallappa's Charities concerned in Original Suit No. 4 of 1879 may be revised on the following grounds, namely :-

1. That the learned District Judge has misconstrued the proceedings of his predecessor dated the 17th January 1927 as also the Government Order No. E.5720-22/Edn. 10-5-25 dated the 14th April 1926 and erred in sanctioning the payment of pensions as per particulars specified in the Board's proceedings dated the 26th January 1930, and in directing the disburnement thereof forthwith.

2. That the learned District Judge further erred in passing orders which have the effect of modifying the express conditions under which Government accepted the transfer of the Marimallappa's School without notifying Government and hearing their objections.

3. That the learned District Judge has further failed to take into consideration the prejudicial effect which the proposals of the Board had on the advancement in education of

the

the Lingayat community in the State quite contrary to the generous intentions of the Donor.

4. That neither the Board of Trustees nor the learned District Judge was competent to go behind the order of the court and the Government Order referred to in para (1) above.

5. That the learned District Judge has thus exercised a jurisdiction not vested in him by law or has acted in the exercise of his jurisdiction illegally or with material irregularity.

6. That the order of the lower court is otherwise erroneous and unsustainable in law.

The Petitioner therefore prays that the order of the Lower Court may be set aside with costs.

SD/- M. Ramachandra Rao.
GOVERNMENT ADVOCATE,
FOR THE PETITIONER.

BANGALORE.
10th October 1930.

"C o p y"

M. Ramachandra Rao

Government Advocate.

Appendix F G–1]

SUBJECT.....

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Section

File No.

Serial No.

Diary No. of letter replied to.....

No. 425

To The Govt. Advocate

General and Revenue Secretariat

( )

the *193* .

Date of issue 20/7/31

Signed by Mr Ray

Sir,

With reference to your letter no 263 dated 31st Oct 1930 I am directed to enquire at what stage the revision petition in the matter of filed by you in the respect Marimuthappa's Charities stands at present

~~The matter may kindly be treated as urgent and reply sent at a very early date~~

I have etc

for Ch. Sec?

List of enclosures.....

Copied by

Examined by.....

35 7 34
P 8.3

In reply please refer to
No. 49

Tel. Address :—
"JURIST," Bangalore.

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore....21st....J u l y.....1931..

From

A. R. Nagesvara Iyer, Esq., B.A., B.L.,
Government Advocate in Mysore,
BANGALORE.

To

The Chief Secretary to the Government
of H.H. The Maharaja of Mysore,
BANGALORE.

Law. JULY 1931

Sir,

With reference to your letter No. P.425/Law. dated the 20th July 1931, I have the honor to state that Civil Revision Petition No.178 of 1929-30 on the file of the High Court of Mysore, (The Director of Public Instruction in Mysore VS. The Trustees of the Marimallappa's Charities, Mysore) was argued on the 13th instant, and orders have been reserved. The result will be intimated to you as soon as the order is pronounced.

I have the honor to be,
Sir,
Your most obedient servant,

A R Nagesvara Iyer

Government Advocate.

CSN.

699/31
P 35

In reply please refer to
No .....

No.101/31-32

Tel. Address:—
"JURIST," Bangalore.

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore....7th.....August.....*19* 31.

From

A.R. Nagesvara Iyer, Esq., B.A., B.L.,
Government Advocate in Mysore,
BANGALORE.

Pol (Law)
CHIEF SECRETARY TO H.H.
8 AUG. 1931

The Chief Secretary to the Government
of H. H. The Maharaja of Mysore,
BANGALORE.

Sir,

'Q'

With reference to Government Order No. P.1556-7/Law. dated the 13th September 1930 and in continuation of this office letter No.48/31-32 dated the 22nd July 1931, I have the honor to state that Civil Revision Petition No.178 of 1930-31 on the file of the High Court of Mysore, (The Director of Public Instruction in Mysore, VS. The Trustees of the Marimallappa's Charities, Mysore) came on for final disposal on 7-8-1931 and orders were passed setting aside the order of the District Judge, Mysore and remanding the case to the lower court for disposal according to law after notice to the Government.

2. A copy of the Order has been applied for and the same will be forwarded to Government as soon as it is received in this office.

I have the honor to be,
Sir,
Your most obedient servant,

A.R. Nagesvara Iyer

Government Advocate.

N/1.

1061 P 31/36

In reply please refer to
No. 143

Tel. Address :—
"JURIST," Bangalore.

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore.....25th.....August.....*19* 31.

2847

GENERAL SECRETARIAT
29 AUG. 1931
No.....

From

The Government Advocate
in Mysore, BANGALORE.

To

The Secretary to the Government
of H. H. The Maharaja of Mysore,
General Department, BANGALORE.

Sir,

In continuation of this office letter No. 101 dated the 7th August 1931, I have the honor to forward herewith, for the information of Government, a copy of the Order passed in Civil Revision Petition No. 178 of 1930-31 on the file of the High Court of Mysore. (The Director of Public Instruction in Mysore, VS. The Trustees of the Marimallappa's Charities, Mysore).

I have the honor to be,

Sir,

Your most obedient servant,

M Narayanaswamy Iyer

Government Advocate.

CSN.

In the High Court of Mysore at Bangalore.

Friday the 7th day of August 1931.

Before

Mr. Justice G. Srinivasa Iyer.

Civil Revision Petition No.178 of 1930-31.

The Government of Mysore,
by the Director of
Public Instruction in
Mysore, Bangalore. Petitioner.

(By Mr.M.Ramachandra Rao
and Government Advocate.)

Vs.

The Board of Trustees of the Marimallappa's Charities, Mysore consisting of the following Members.

Messrs. 1. J.C.Rollo,
2. M.Venkatkrishnaiah,
3. B.Subba Rao,
4. Lokahitaiahi.H. Janjundaraj Urs.
5. M.Basavalingaiah.
6. S.Rangacharlu, Opponents.
7. H.Narasinga Rao,
8. Mysore Mahalingappa.
9. M.P.Lingappaiah.
10. Y.Virupakshaiah.
11. T.S.Siddappa.

(Opponents 2,3,4,6 and 7 by Mr.M.P.Somasekhara Rao, the rest being absent and unrepresented.)

Civil Revision Petition against the order dated 1st August 1930 passed by the District Judge of Mysore re. the management of the late Mr.Marimallappa's charities under the scheme settled in original suit No.4 of 1879.

This Civil Revision petition coming on for hearing on Monday the 13th of July 1931, the Court pronounced the following:-

Order.

This revision petition is presented against an order of the District Judge of Mysore, passed in the matter of the management of Mari Mallappa's Charities under the Scheme settled in Original Suit No. 4 of 1879.

This revision petition is presented against an order of the District Judge of Mysore, passed in the matter of the management of Mari Mallappa's Charities under the Scheme settled in Original Suit No.4 of 1879.

It is unnecessary for the purposes of this petition to state the previous history of the case or to refer to the orders prior to the one passed on 17-1-1927. As the financial condition of the school was found to be very unsatisfactory and as the institution could not be maintained in an efficient manner with the income realised from the endowment, the Board of Trustees recommended that the school might be handed over to the management of Government. The conditions under which the Government agreed to take up the management are detailed in G.O.No.E.5720-22/Edn. dated 14th April 1926. These conditions and arrangements were sanctioned by the District Judge in his order dated 17-1-27 referred to above. One of these conditions provides that the pensions already sanctioned by the Trustees to some of the retired teachers of the school should be paid to them as along as they are payable out of the income from the endowment and that thereafter the whole amount should be utilised for scholarships. Under that order virtually the only functions which the Board of Trustees had to perform appear to be those referred to in paragraphs III (c) and (d) of the order of the District Judge. After the school and its properties were handed over to the Government, three teachers and a peon were retired. The Board of Trustees recommended to Government the grant of a pension to these persons. and it is represented that the Government have been pleased to sanction a gratuity to them having regard to the long

service they rendered to the institution. The teachers seem to have however not been satisfied with the grant of gratuity and they accordingly moved the District Judge for the grant of a pension instead of gratuity. The District Judge forwarded the same for the favourable consideration of the Board and for report in his letter No.3492/495 dated 23-12-1929. Similar applications seem to have been presented to the Board also and the Board in their letter dated 6th October 1929 requested the directions of the District Judge as to whether they had the power to award any further pensions in view of the order of the 17th of January 1927. The District Judge was of opinion that the order did not prevent the Committee from considering fresh applications for the grant of pensions and from making such recommendations relating thereto as they deemed reasonable and equitable to him for approval. As one of the previous pensioners died subsequent to the passing of the order in 1927, a sum of Rs.30/- which has been paid to him was available and the Board passed a resolution distributing that sum amongst the four pensioners referred to above and the District Judge has directed that the pensions may be paid as recommended by the Board. It is against this order that the Director of Public Instruction has filed this revision petition under the orders of Government.

From the facts mentioned above it is clear that the Government took up the manggement under certain express conditions sanctioned by the District Judge in the order dated 17-1-1927. Any modification in that order can only be made after hearing all the persons who were parties to that arrangement. The proceedings do not show that any notice was issued to the petitioner or the Government

before the order was passed by the District Judge. In fact it is conceded that no such notice was issued to them. It was suggested that as the order now made by the District Judge does not affect the financial interests of Government, a notice might have been considered unnecessary This cannot be accepted. The Government entered into the agreement under certain express conditions. The Court gave affect to them and any alteration in those conditions can only be made after hearing the Government. The Government had expressly stipulated that the income paid to the pensioners should be utilised towards scholarships and that condition cannot be altered without obtaining their consent or without notice to them. The learned District Judge has obviously ignored this elementary principle and the order now passed without any notice to the Government cannot therefore be supported. Mr. Somasekhara Rao concedes that the order should have been passed after notice to Government. The order is accordingly set aside, and the District Judge is directed to dispose of the matter after notice to Government in the light of the above observations. No order as to costs.

Sd. G.Srinivasa Iyer.

Judge.

G. H. S. App F. G. 3.

GENERAL AND REVENUE SECRETARIAT.

(Continuation sheet draft form.)

1539 P5

To

The Director of Pub. Instr.
B'lore

Sir,

109/31

I am directed to forward herewith a copy of the order passed in Civil Revision petition No. 178/30-31 on the file of the H. Ct. Mysore (The Dir. of P. Instr. vs The Trustees of Marimallappa's Charities, Mysore) and to request you to take further action in the Dist. Ct. Mysore in Consultation with the PPr. Mysore.

I have etc
for the
Gen Secy

TSD 1/9 1/9

1540 Copy to PPr, Mysore for info

1/9

WI) 0327—G PB—10,000— 18-5-27

1132 1931 P 42

In reply please refer to
No. 163

Tel. Address
"JURIST," Bangalore.

OFFICE OF THE GOVERNMENT ADVOCATE
IN MYSORE,

Bangalore... 1st ... September ... 1931.

209

Law 41+30-3

GENERAL SECRETARIAT
From
2 SEP 1931
No. Law
6 41

The Government Advocate
in Mysore, BANGALORE.

To

The Secretary to the Government
of H.H.The Maharaja of Mysore,
General Department, BANGALORE.

Sir,

With reference to Government Order No. P.1556-7/Law. dated the 13th September 1930 and in continuation of this office letter No.143 dated the 18th August 1931, I have the honor to forward herewith, for the sanction of Government, a Bill for - Rs.50/- only, being my remuneration for professional services rendered on behalf of Government in Civil Revision Petition No. 178 of 1930-31 on the file of the High Court of Mysore, (The Director of Public Instruction in Mysore, VS. The Trustees of the Marimallappa's Charities, Mysore).

I have the honor to be,
Sir,
Your most obedient servant,

M Rangaswamy Iyer

Government Advocate.

CSN.

43

Appendix F G–3]

SUBJECT.....

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Section Legal

File No. 41-30

Serial No. 41

Diary No. of letter replied to.....

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read—

General and Revenue Secretariat

( )

the 193

Letter No 163 dated 1st September 1931 from the Govt Advocate, forwarding for Sanction a bill for Rs 50/- being his remuneration for the Professional services rendered in Civil Revision Petition 178 of 30-31 on the file of the High Court of Mysore.

Date of issue 2-9-31

Signed by Mr. C.S.S.

May this be

i. printed? ×

ii. treated as a standing order? ×

iii. published in the Gazette English Part? ×

iv. translated?

v. placed at the disposal of the press? ×

vi. published in the Gazette, Kannada Part? ×

List of enclosures ×

(The D.P.P. in Mysore vs The Trustees of the Marimallappa's Charities, Mysore)

Order:— 1762-4(2)

Sanctioned. The D.P.P. is requested to point out direct to the Comptroller the Source out of which the Charge is to be met.

Copied by

Examined by

To,

1) The Govt. Ad. with the bill
2) " Comptroller
3) " D.P.P. in Mysore

TSD 4/9

4/9

Govt see!

44.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

Read:—

Letter No.163 dated 1st September 1931 from the Government Advocate, forwarding for sanction a bill for Rs 50/- being his remuneration for the professional services rendered in Civil Revision Petition 178 of 30-31 on the file of the High Court of Mysore, (The Director of Public Instruction in Mysore VS the Trustees of the Narimallappa's Charities, Mysore).

- - - - - - - - - -

ORDER NO.

Dated, Bangalore, the 23rd September 1931.

Sanctioned. The Director of Public Instruction requested to point out direct to the Comptroller the source out o which the charge is to be met.

Dy General Secretary to Government.

To

The Government Advocate with the Bill.
" Comptroller to Government.
" Director of Public Instruction in Mysore.

S.R.-4